

**Illinois Department of Revenue
Regulations**

Title 86 Part 130 Section 130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

TITLE 86: REVENUE

**PART 130
RETAILERS' OCCUPATION TAX**

**Section 130.825 Department Authorization to Destroy Records Sooner Than Would
Otherwise be Permissible**

- a) In all cases, the Department may, in writing, authorize the destruction of books and records and other papers prior to the expiration of the periods of time during which the taxpayer, except for such written authorization from the Department, is required to keep his books and records. The Department may authorize destruction of records if the records are preserved in microfilm, microfiche, other storage-only imaging systems or an electronic data processing system and meet the conditions as prescribed in Section 130.805.
- b) Record Retention Limitation Agreements
 - 1) The Department may, at the request of the taxpayer, enter into a record retention limitation agreement with a taxpayer which agreement may modify or waive any of the specific requirements of Section 130.805. A taxpayer's request for such an agreement must specify which records (if any) the taxpayer proposes not to retain and provide the reasons for not retaining such records as well as proposing any other terms of the requested agreement. The taxpayer shall remain subject to all requirements of Section 130.805 that are not modified, waived or superseded by a duly approved record retention limitation agreement.
 - 2) The Department may revoke or modify a record retention limitation agreement or any provision thereof.
 - 3) The record retention limitation agreement shall specifically identify which of the taxpayer's records the Department has determined are not necessary for retention and which the taxpayer may discard. The agreement shall also clearly state each authorized variance, if any, from the normal provisions of Section 130.805. The agreement shall also document other understandings reached with the Department, which may include, but not be limited to:
 - A) the conversion of files created on an obsolete computer system;
 - B) restoration of lost or damaged files and the actions to be taken;
 - C) use of taxpayer computer resources.
 - 4) The Department shall consider a taxpayer's request for a record retention limitation agreement and notify the taxpayer of the actions to be taken. The Department's decision to enter or not to enter into a record retention limitation

agreement shall not relieve the taxpayer of the responsibility under the Act to keep adequate and complete records necessary to a determination of tax liability.

- 5) Unless otherwise specified, an agreement shall not apply to accounting and tax systems added subsequent to the effective date of the agreement. All machine-sensible records produced by a subsequently added accounting or tax system shall be retained by the taxpayer in accordance with Section 130.805 until a new agreement is entered into with the Department.
- 6) Unless otherwise specified, an agreement shall not apply to any subsidiary or other entity that, subsequent to the effective date of a record retention limitation agreement, is acquired by the taxpayer. All machine-sensible records produced by the acquired subsidiary shall be retained pursuant to Section 130.805 and any record retention limitation agreement that may have been in effect for the acquired subsidiary ("pre-acquisition agreement"). The provisions of the pre-acquisition agreement shall continue to apply to the acquired subsidiary until revoked or modified by the Department or a new agreement applying to the acquired subsidiary is entered into.
- 7) To evaluate the propriety of a record retention limitation agreement, the Department may conduct an evaluation of the taxpayer's record retention practices. The evaluation may include a review of the taxpayer's relevant data processing and accounting systems, including systems using electronic data interchange technology.
 - A) The Department shall notify the taxpayer of the results of any evaluation, including acceptance or disapproval of any proposals made by the taxpayer (e.g., to discard certain records) or any changes considered necessary to bring the taxpayer's practices into compliance with Section 130.805.
 - B) The evaluation of a taxpayer's record retention practices under this Section is not directly related to the determination of tax reporting accuracy for a particular period or return. An evaluation made under this Section is not an "audit".

(Source: Amended at 20 Ill. Reg. 15753, effective December 2, 1996)